

Internal Revenue Service

Department of the Treasury

District  
Director

**CERTIFIED**

Employer Identification Number:

Person to Contact:

Telephone Number:

Refer Reply to:

Internal Revenue Service

ate **AUG 24 1993**

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

Your Articles of Incorporation was amended [REDACTED] to include the following purpose:

To provide informative and educational opportunities exclusively for educational and scientific purposes, for the [REDACTED] computer enthusiast, through regular monthly meetings available to the membership & public at which software & hardware demonstrations, formal presentations from the computer industry and open discussions with experienced [REDACTED] users. The corporation is organized as a not for profit corporation and within the meaning of Section 501(c)(3) of the Internal Revenue Code.

According to your Form 1023 application for exemption, the activities of the organization consists of monthly meetings which include guest speakers presenting hardware and software, mini-workshops, open question and answer dialogues, access to the public domain software library, software raffles, news, rumors, and "[REDACTED]" in general. You also hold meetings in which representatives of [REDACTED] answer questions regarding the [REDACTED] system and software. In correspondence dated [REDACTED], you stated that the Group is specifically interested in the [REDACTED] computer user. In later correspondence, you stated that [REDACTED] ([REDACTED]) offers workshops, lectures & discussions involving primarily the [REDACTED] user, but is not solely limited to [REDACTED] users. You estimate that [REDACTED]% of your efforts are devoted towards the [REDACTED] PC hardware and software.

You publish a monthly newsletter, [REDACTED], which keeps members informed of current scientific and technical data of special interest to them as users of the [REDACTED]. The newsletter includes reprinted articles from other [REDACTED] groups, advice and reviews relating to the use of the [REDACTED] and the application of software packages for use on the [REDACTED]. The newsletter also includes [REDACTED] Help numbers, a calendar of local [REDACTED] seminars and advertisements for computer products and services.

According to your bylaws, membership is open to all persons interested in the purposes of the association, which is to enhance the [REDACTED] working environment for the membership. There are four membership categories: students \$[REDACTED]; single \$[REDACTED]; family \$[REDACTED]; and corporate \$[REDACTED] limited to 3 individuals per company. Members receive [REDACTED], announcements for special workshops and seminars, access to 3 local bulletin boards, and a free disk from the organization's public domain library.

You have been involved with advertising hardware products for a local distribution firm. You received a computer monitor for review, which was later kept by the organization as compensation. Your name and names of members appeared in ads in [REDACTED] computer magazine praising the products of the distribution firm. (see attached exhibits 1 and 2)

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)...."

"(c) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals..."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. U.S., 326 U.S. 279 (1945) the Supreme Court of the United States said, "This plainly means that the presence of a single non-educational purpose, if substantial in nature will destroy the exemption regardless of the number or importance of truly educational purposes". This statement applies equally to any category of charitable purposes under Section 501(c)(3) of the Code.

Revenue Ruling 74-116, 1974-1 C.B. 127, holds that an organization whose membership is limited organizations that own, rent, or use a specific type of computer and whose activities are designed to keep members informed of current scientific and technical data of special interest to them as users of the computer is not exempt under Section 501(c)(3) of the Code.

[REDACTED]

In the court case the Better Business Bureau VS U.S., a single non-exempt purpose can preclude exemption under Section 501(c)(3) of the Code. Advertising and promoting [REDACTED] products is not an exempt activity under Section 501(c)(3). As in the above revenue ruling the [REDACTED] users group is devoted to developing and exchanging information among users of a specific type of computer, [REDACTED]. The organization also serves as a liaison between users, manufactures and distributors of the computer and its applications. By making specialized information available to the members, the organization is serving a private interest of its members rather than a public interest.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

[REDACTED]

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]

District Director

Enclosures:  
Publication 892  
Form 6018